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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,865	06/20/2003	Todd Rusk	ILL-5 DIV (U0031.08)	6650
26689	7590	08/31/2004	EXAMINER	
WILDMAN, HARROLD, ALLEN & DIXON 225 WEST WACKER DRIVE CHICAGO, IL 60606			DRODGE, JOSEPH W	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/600,865	RUSK ET AL.
	<b>Examiner</b> Joseph W. Drodge	<b>Art Unit</b> 1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may receive any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on June 20, 2003 (preliminary Amendment).

2a)  This action is FINAL.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 29-40 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 29-40 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

The disclosure is objected to because of the following informalities: The top of page 1 must be amended to indicate that the parent application is now patent 6,613,233.

Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Bourhis et al patent 5,674,405.

Bourhis et al disclose process unit 54, collection unit 80, fill pipe 60/70/74 and vent pipe 81/83/94. For claims 30-33, the vent pipe is attached to the top of vessel 80 having a frustoconical/slanting top, the point of attachment is well below the adjacent fluid level in unit 54 and the top of the vent pipe 94 rises above such level of fluid. For claim 35, separator 90 removes carbon dioxide contaminants from the liquid fluid.

Claims 29 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Later patent 5,259,962.

Later discloses industrial hopper unit 12 (for the sand processing industry), fill line 16, collection unit 10, vent pipe 92, pipe 92 containing or adjacent means for removing contaminants by filtration from the vented gas (column 6, lines 42-55) as required by claims 35 and 36. Re claim 34, also see transparent (glass) vent pipe of the example

(column 7, lines 56-63), if necessary, this latter vent pipe also containing contaminant removing means in the form of a filter.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourhis et al in view of Dickinson patent 4,292,953.

These method claims differ from Bourhis et al in positively reciting that the upstream unit is an industrial unit, however Bourhis et al does disclose catalytic oxidation system. Dickinson teaches catalytic oxidation system being an integral part of an industrial unit for producing power and energy. (columns 1-2 generally). Thus, it would have been obvious to one of ordinary skill in the art to have utilized the Bourhis et al system as part of a larger system in the industrial generation of power and energy, as suggested by Dickinson, for energy conservation purposes. Regarding claims 37 and 38, also see figure 2 of Bourhis et al and column 9, lines 9-10 of Dickinson regarding gravity flow downward and position of vent pipe. Regarding claims 39-40, the back pressure devices disclosed by Bourhi et al can alternatively be considered as a device to reduce pressure and control flow (i.e. are valves).

For claims including the term "means for removing contaminants, the specification does not describe particulars or details of this 112@6th paragraph limitation, hence it is considered to read on any form of device to remove any type of contaminant from a liquid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

August 26, 2004



JOSEPH DRODGE  
PRIMARY EXAMINER